

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RICO MENEFEE,

Plaintiff,

v.

MICHIGAN DEPARTMENT OF
CORRECTIONS, KRISTIN MASON,
DIANE CANTERBURY-MILLER,
KRISTEN BROWN, AMBER
PARKER, ALLISON LOPEMAN,
JOSH ALLEN, BARBARA ROSE,
LORI KISSAU, and EQUYES
GROENLEER,

Defendants.

Case No. 2:23-cv-10024

Matthew F. Leitman
United States District Judge

Patricia T. Morris
United States Magistrate Judge

**ORDER DENYING PLAINTIFF'S MOTION FOR
MEDICAL EXAMINATION (ECF No. 45)**

Plaintiff Rico Menefee, a prisoner in the custody of the Michigan Department of Corrections, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against several defendants alleging violation of his First, Eighth, and Fourteenth Amendment rights. (ECF No. 1). Specifically, his claims include allegations of deliberate indifference to a serious medical need, retaliation, denial of access to courts, and discrimination in violation of the Equal Protection Clause. (*Id.*). He also alleges violation of his rights under the Americans with Disabilities Act. (*Id.*). The

Court *sua sponte* dismissed Plaintiff's equal protection claim along with several defendants in the case. (ECF No. 9, PageID.68).

On January 30, 2024, Plaintiff moved the Court to order that he undergo a complete, independent medical examination pursuant to Federal Rule of Civil Procedure 35. (ECF No. 45, PageID.151). Defendants opposed the motion arguing that Plaintiff cannot use Federal Rule of Civil Procedure 35 to obtain a court-ordered medical examination of himself. (ECF No. 48, PageID.168).

Federal Rule of Civil Procedure 35(a)(1) provides that the district court “may order a party whose mental or physical condition—including blood group—is in controversy to submit a physical or mental examination by a suitably licensed or certified examiner.” Rule 35 does not permit a party to seek his own medical examination. *Parker v. Washington*, No. 4:20-cv-11413, 2021 WL 11549708, at *3 (E.D. Mich. May 17, 2021) (Rule 35 does not “vest the court with authority to appoint an expert to examine a party wishing an examination of himself.”) (internal citations omitted); *Gannaway v. Prime Care Med., Inc.*, 150 F. Supp. 3d 511, 523 n. 4 (E.D. Pa. 2015); *Jarrell v. Sec. of Veterans Affairs*, Case No. 3:16-cv-00095, 2017 WL 5126150, at *1 (S.D. Ohio Oct. 17, 2017). Thus, there is no basis for the Court to order an examination of Plaintiff in this case. Thus, Plaintiff's motion (ECF No. 45) is **DENIED**.

IT IS SO ORDERED.

Review of this order is governed by 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72, and E.D. Mich. LR 72.1(d).

Date: February 27, 2024

S/PATRICIA T. MORRIS

Patricia T. Morris

United States Magistrate Judge